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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,050	10/09/2006	Markus Baumeister	DE 030104	6167
24737 7590 01/06/2009 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER KAO, JUTAI	
			ART UNIT 2416	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/552,050	BAUMEISTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JUTAI KAO	2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Amendments filed on 09/25/2008 have been entered into prosecution. The amendments change the scope of the original claims. Therefore, new grounds of rejections are provided in this office action and the action is made final.

Amendments made to the claims fix the problems addressed in the claim objections raised in the previous office action. The corresponding claim objections are therefore withdrawn.

### ***Response to Arguments***

1. Applicant's arguments filed 09/25/2008 regarding the objections to the drawing have been fully considered but they are not persuasive.

The applicant argues that the current drawing shows all aspects of the claimed invention. However, the drawing only shows the transmission of messages A and P and the network configuration. The drawing does not show any details of the claims including the broadcasting of messages, the risk of overload, control message including a sender address. In addition, the drawing does not include any text description of the labeled parts. For example, block 4 should be labeled as television in the drawing.

2. Applicant's arguments with respect to claims 1-2 and 4-10 have been considered but are moot in view of the new ground(s) of rejection.

New references are added to the current rejection in order to cover the newly added claim elements. Laksono (US 2006/0193380) discloses a broadcasting system that includes bandwidth monitoring and therefore can be combined with Arauz-Rosado's bandwidth monitoring method for to teach the claimed bandwidth monitoring/control method for a broadcasting system. Dillon (US 6,473,793) is included to disclose the claimed limitation of including a sender address matching an address of the second network participant in a control message.

### ***Drawings***

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitations regarding the actual methods and the different types of control messages must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

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of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawing only shows the transmission of messages A and P and the network configuration. The drawing does not show any details of the claims including the broadcasting of messages, the risk of overload, control message including a sender address. In addition, the drawing does not include any text description of the labeled parts. For example, block 4 should be labeled as television in the drawing.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 1-2, 4 and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arauz-Rosado (US 2006/0174015) in view of Laksono (US 2006/0193380) and Dillon (US 6,473,793).

Arauz-Rosado discloses a method for codec selection including the following features.

Regarding claim 1, a method of ensuring the quality of service (see “QoS” recited in paragraph [0022]) in a network (see “network” recited in the abstract); observing the network traffic at a bandwidth manager of the network (see “Bandwidth Allocation Server” (BWAS) recited in paragraph [0024]), the network traffic (see “bandwidth usage on the monitored network” recited in paragraph [0025]) including a data stream transmitted from a first network participant as source (see EP-A 91 in Fig. 9) to a second network participant as a target (see EP-B 92 in Fig. 9), wherein the first network participant transmits the data stream (see “origination endpoint, And then transmitted towards a destination endpoint...” recited in paragraph [0009]) without performing its own control of the quality of service (see MCS 93, which performs the Codec selection process 70 in Fig. 9, that is, the selected codec represents the quality of service provided, and since the codec is selected by the multimedia controller, MCS, the endpoints do not perform their own control of quality of service); in the case of a risk of overload of the network (see “if the bandwidth usage in a given moment surpasses the predefined high-level” recited in paragraph [0025]), the bandwidth manager transmitting

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a control message to the first network participant, which message causes the first network participant to reduce said data stream (see “orders to the endpoints to use codecs that requires less bandwidth” recited in paragraph [0025]).

Regarding claim 2, wherein the data are exchanged in the network in a packet-oriented manner, particularly in accordance with a TCP/IP-based protocol (see “TCP” recited in paragraph [0057]).

Regarding claim 4, wherein the control message represents a direct request for reducing the data stream (see “orders to the endpoints to use codecs that requires less bandwidth” recited in paragraph [0025]).

Regarding claim 9, a network apparatus (see “BWAS” recited in paragraph [0024]-[0025], or the MCS shown in Fig. 9) adapted to observe the network traffic at a bandwidth manager of the network (see “Bandwidth Allocation Server” (BWAS) recited in paragraph [0024]), the network traffic (see “bandwidth usage on the monitored network” recited in paragraph [0025]) including a data stream transmitted from a first network participant as source (see EP-A 91 in Fig. 9) to a second network participant as a target (see EP-B 92 in Fig. 9), wherein the first network participant transmits the data stream (see “origination endpoint, And then transmitted towards a destination endpoint...” recited in paragraph [0009]) without performing its own control of the quality of service (see MCS 93, which performs the Codec selection process 70 in Fig. 9, that is, the selected codec represents the quality of service provided, and since the codec is selected by the multimedia controller, MCS, the endpoints do not perform their own control of quality of service); in the case of a risk of overload of the network (see “if the

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bandwidth usage in a given moment surpasses the predefined high-level” recited in paragraph [0025]), the bandwidth manager transmitting a control message to the first network participant, which message causes the first network participant to reduce said data stream (see “orders to the endpoints to use codecs that requires less bandwidth” recited in paragraph [0025]).

Regarding claim 10, a network comprising network participants (see participants in Fig. 9) including at least one network apparatus as claimed in claim 9 (see MCS in Fig. 9).

Arauz-Rosado does not disclose the following features: regarding claim 1 and 9, wherein the network is a broadcast network and the data stream is being broadcasted by the first network participant; the control message from the bandwidth manager includes a sender address matching an address of the second network participant.

Laksono discloses a method of a managed degradation of a video stream including the following features.

Regarding claim 1 and 9, wherein the network is a broadcast network (see “networks for broadcasting of media stream” recited in paragraph [0009]) and the data stream is being broadcasted by the first network participant (see Gateway media server 210 broadcasts the data stream...” recited in paragraph [0024]; it is also noted that Laksono’s system includes a bandwidth detection system, therefore is reasonable to combine with Arauz-Rosado, see paragraph [0010], which recites “detects if the network bandwidth is close to saturation”).



Dillon discloses a method for selectively allocating and enforcing bandwidth usage requirements on network users including the following features.

Regarding claim 1 and 9, the control message from the bandwidth manager includes a sender address matching an address of the second network participant (see “When the hybrid gateway 150 receives the packet, it strips off the tunneling header...the hybrid gateway 150 identifies the packet sender using the source address in the true header...to throttle the user’s bandwidth” recited in column 9, lines 39-59, wherein the address of the second network participant is the source address included in the true header, and the message is a control message that may throttle the user’s bandwidth).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Arauz-Rosado using features, as taught by Laksono and Dillon, in order to perform a centralized bandwidth control for a broadcast network.

7. Claim 5-6 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arauz-Rosado, Laksono and Dillon in view of Akashi (US 4,500,990).

Arauz-Rosado, Laksono and Dillon disclose the claimed limitations as shown above.

Arauz-Rosado, Laksono and Dillon do not disclose the following features: regarding 5 and 13, wherein the control message simulates an error in the transmission of the data stream from the source to the target, so that the source is made to reduce

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the data stream; regarding claim 6 and 14, wherein the control message triggers a connection break down.

Akashi discloses a data communication device including the following features.

Regarding 5 and 13, wherein the control message simulates an error in the transmission of the data stream from the source to the target (see “The obstruction signal transmitting means is responsive to the overflow flag for transmitting an obstruction signal to the transmission medium. The obstruction signal is for causing a collision on the transmission medium” recited in column 3, lines 12-17), so that the source is made to reduce the data stream (see abstract, “transmission of data packets thereto is suspended when a collision is detected”, therefore, the obstruction signal cause the data rate to become zero).

Regarding claim 6 and 14, wherein the control message triggers a connection break down (see abstract, “transmission of data packets thereto is suspended when a collision is detected”, therefore, the obstruction signal cause the data rate to become zero).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Arauz-Rosado, Laksono and Dillon using features, as taught by Akashi, in order to notify the end nodes of the overflowing situation.

8. Claim 7 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arauz-Rosado, Laksono and Dillon in view of Igarashi (US 2007/0184839).

Arauz-Rosado, Laksono and Dillon disclose the claimed limitations as shown above.

Arauz-Rosado, Laksono and Dillon do not disclose the following features: regarding claim 7 and 15, wherein the bandwidth manager first attempts to reduce the largest data stream in view of a plurality of data streams between apparatuses without their own quality of service control in the case of risk of overload of the network.

Igarashi discloses a mobile communication system including the following features.

Regarding claim 7 and 15, wherein the bandwidth manager first attempts to reduce the largest data stream in view of a plurality of data streams between apparatuses without their own quality of service control in the case of risk of overload of the network (see "if a new packet data communication is established, the data rate of a connection with the highest data rate is reduced..." recited in paragraph [0134], previous paragraphs shows that the network is at saturation, thus the new connection would cause the network to overflow).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Arauz-Rosado, Laksono and Dillon using features, as taught by Igarashi, in order to provide minimum service to more users.

9. Claim 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arauz-Rosado, Laksono and Dillon in view of Hanson (US 5,633,861).

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Arauz-Rosado, Laksono and Dillon disclose the claimed limitations as shown above.

Arauz-Rosado, Laksono and Dillon do not disclose the following features: regarding claim 8, wherein the tasks between a plurality of network participants which can operate as bandwidth managers are co-ordinated.

Hanson discloses a traffic management and congestion control method including the following features.

Regarding claim 8, wherein the tasks between a plurality of network participants which can operate as bandwidth managers (see "intermediate nodes" recited in column 2, lines 37-51) are co-ordinated (see "other active virtual connections reduce their use of excess network resources in favor of the newly active virtual connection..." recited in column 3, lines 5-17; which shows the coordination).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Arauz-Rosado, Laksono and Dillon using features, as taught by Hanson, in order to coordinate the bandwidth management and prevent confusion of the bandwidth control between the network participants.

10. Claim 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arauz-Rosado, Laksono and Dillon as applied to claim 1 and 9 above, and further in view of Matsubayashi (US 7,284,061).

Arauz-Rosado, Laksono and Dillon disclose the claimed limitations as shown above.

Arauz-Rosado, Laksono and Dillon do not disclose the following features: regarding claim 11 and 12, upon at least one of a start-up of the broadcast network and a change in devices operating with the broadcast network, the bandwidth manager determining which devices operating with the broadcast network are able to performing their own control of the quality of service.

Matsubayashi discloses a method of obtaining temporary exclusive control of a device including the following features.

Regarding claim 11 and 12, upon at least one of a start-up of the broadcast network and a change in devices operating with the broadcast network (see “authenticate/authorize the user first” recited in column 31, lines 55-57, wherein authentication occurs as a device first enters the network, therefore, at a change in devices operating with the network; the broadcast network is shown in Laksono), the bandwidth manager determining which devices operating with the broadcast network are able to performing their own control of the quality of service (see “determine the requesting user’s priority (i.e., to be able to determine whether the user can interrupt a session)” recited in column 31, line 57-59, wherein the determining of the user’s ability to interrupt a session is considered the determining of a user’s capability of controlling their own quality of service, as the ability to interrupt a session is considered the controlling of the QoS).

It would have been obvious to one of the ordinary skill in the art at the time of the invention to modify the system of Arauz-Rosado, Laksono and Dillon using features, as taught by Matsubayashi, in order to determine the capability of a requesting user.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JUTAI KAO whose telephone number is (571)272-9719. The examiner can normally be reached on Monday ~Friday 7:30 AM ~5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang Yao can be reached on (571)272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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